

§ 194.164

27 CFR Ch. I (4–1–04 Edition)

§ 194.164 Stockholder continuing business of corporation.

A special tax stamp held by a corporation as a dealer in liquors, or as a dealer in beer, cannot cover the same business carried on by one or more of its stockholders after dissolution of the corporation.

(72 Stat. 1340, 1343; 26 U.S.C. 5111, 5121)

§ 194.165 Change in trade name or style of business.

A dealer who has paid the special tax for his business at a given location is not required to pay additional special tax by reason of a mere change in the trade name or style under which he conducts such business, or by reason of a change in management which involves no change in proprietorship of the business.

(72 Stat. 1340, 1343, 26 U.S.C. 5111, 5121)

§ 194.166 Change of name or increase in capital stock of a corporation.

Additional special tax is not required by reason of a change of name or increase in the capital stock of a corporation if a new corporation is not created under the laws of the State of incorporation.

(72 Stat. 1340, 1343; 26 U.S.C. 5111, 5121)

§ 194.167 Change in ownership of capital stock.

Additional special tax is not required by reason of the sale or transfer of all or a controlling interest in the capital stock of a corporation.

§ 194.168 Change in membership of unincorporated club.

Additional special tax is not required of an unincorporated club by reason of changes in membership, where such changes do not result in the dissolution thereof and the formation of a new club.

§ 194.169 Change of control, persons having right of succession.

Certain persons other than the special taxpayer may, without paying additional special tax, secure the right to carry on the same business at the same address for the remainder of the taxable period for which the special tax was paid. Such persons are:

(a) The surviving spouse or child, or executor, administrator, or other legal representative of a deceased dealer;

(b) A husband or wife succeeding to the business of his or her living spouse;

(c) A receiver or trustee in bankruptcy, or an assignee for benefit of creditors; and

(d) The partner or partners remaining after death or withdrawal of a member of a partnership.

In order to secure such right, the person or persons continuing the business shall file with ATF, within 30 days from the date on which the successor begins to carry on the business, an amended special tax return on Form 5630.5, showing the basis of the succession, and shall surrender the unexpired special tax stamp or stamps for endorsement of the change in control: *Provided*, That, if the original return, Form 5630.5, was filed under the provisions of § 194.106(b), the person succeeding to the business may deliver the amended return and stamp to any ATF office, or to any ATF officer inspecting the business, in lieu of mailing them to ATF. If the applicant has the right of succession and the return and stamp are submitted on time, the regional director (compliance) or other ATF officer receiving them will enter the proper endorsement on the stamp and return it to the successor.

(68A Stat. 846, 72 Stat. 1347; 26 U.S.C. 7011, 5143)

[T.D. 7110, 36 FR 8036, Apr. 29, 1971. Redesignated at 40 FR 16835, Apr. 15, 1975; as amended at 52 FR 19336, May 22, 1987]

§ 194.170 Failure to perfect right of succession within 30 days.

A person who would have had the privilege of succeeding, as provided in § 194.169, to a business for which the special tax had been paid for the remainder of the taxable period but failed to register such succession within 30 days from the date he began to carry on such business is required to pay special tax, and interest on the amount required to be shown on the return as tax, just as if he were engaging in a new business (as to liability for delinquency penalty see § 194.109). The amount of tax, delinquency penalty,

and interest to be paid shall be computed as provided in §§ 194.103, 194.109, and 194.110.

(68A Stat. 846, 72 Stat. 1347; 26 U.S.C. 7011, 5143)

Subpart L—Exemptions and Exceptions

PERSONS EXEMPT FROM LIQUOR AND BEER DEALER SPECIAL TAXES

§ 194.181 Single sale of liquors or warehouse receipts.

A single sale of distilled spirits, wines, or beer, or a single sale of one or more warehouse receipts for distilled spirits, unattended by circumstances showing the person making the sale to be engaged in the business, does not subject the vendor to special tax.

(72 Stat. 1340, 1343, 1346; 26 U.S.C. 5111, 5121, 5142)

§ 194.182 Proprietors of distilled spirits plants selling certain distilled spirits or wines.

(a) *Exemption of proprietor.* No proprietor of a distilled spirits plant shall be required to pay special tax as a wholesale or retail dealer in liquors on account of the sale at his principal business office as designated in writing to the regional director (compliance), or at his distilled spirits plant, of distilled spirits or wines which, at the time of sale, are stored at his distilled spirits plant, or had been removed from such plant to a taxpaid storeroom the operations of which are integrated with the operations of such plant and which is contiguous or adjacent to, or in the immediate vicinity of, such plant. However, no such proprietor shall have more than one place of sale, as to each plant, that shall be exempt from special tax under this section.

(b) *Place of exemption.* Unless the exemption is claimed elsewhere, it will be presumed that the exemption is claimed at the plant where the spirits or wines are stored. If the proprietor wishes to be exempt from payment of special tax with respect to sales at his principal business office rather than for sales at his plant, he shall notify the regional director (compliance) of the region in which the plant is located of his intention. Such notice shall be in

writing, on letter size paper and shall be submitted in triplicate. On approval, two copies will be returned to the proprietor, one to be filed at the principal office, and the original will be retained by the regional director (compliance). Where the exemption is claimed for a place other than the plant, special tax shall be paid at the plant if sales are made thereat.

(72 Stat. 1340; 26 U.S.C. 5113)

§ 194.183 Proprietors of bonded wine cellars selling certain wines or wine spirits.

(a) *Exemption of proprietor.* No proprietor of a bonded wine cellar shall be required to pay special tax as a wholesale or retail dealer in liquors on account of the sale at his principal business office as designated in writing to the regional director (compliance), or at his bonded wine cellar, of wines or wine spirits which, at the time of sale, are stored at his bonded wine cellar, or had been removed from such bonded wine cellar to a taxpaid storeroom the operations of which are integrated with the operations of such bonded wine cellar and which is contiguous or adjacent to, or in the immediate vicinity of, such bonded wine cellar. However, no such proprietor shall have more than one place of sale, as to each bonded wine cellar, that shall be exempt from special tax under this section.

(b) *Place of exemption.* Unless the exemption is claimed elsewhere, it will be presumed that the exemption is claimed at the bonded wine cellar where the wines or wine spirits are stored. If the proprietor wishes to be exempt from special tax with respect to sales at his principal office rather than for sales at his bonded wine cellar, he shall notify the regional director (compliance) of the region in which the bonded wine cellar is located of his intention. Such notice shall be in writing, on letter size paper and shall be submitted in triplicate. On approval two copies will be returned to the proprietor, one to be filed at the principal office, and the original will be retained by the regional director (compliance). Where the exemption is claimed for a place other than the bonded wine cellar, special tax shall be paid at the